

MAR 24 1983

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

BEFORE THE ARBITRATOR

 In the Matter of an Arbitration of the Dispute Between
 NEW LISBON EDUCATION ASSOCIATION
 and
 SCHOOL DISTRICT OF NEW LISBON

Case no. XI
 No. 28228
 Med/Arb - 1253
 Decision No. 19486-A
 Arbitrator: Stanley H.
 Michelstetter II

Appearances:

Mr. Gerald Roethel, UniServ Director, Coulee Region United Educators.
Mr. Delman Simmons, Coordinator, Southwest Bargaining Project, Ms. Linda M. Schneider, appearing on behalf of the Association.
Mr. David R. Friedman, Staff Counsel, Wisconsin Association of School Boards, Inc., appearing on behalf of the Employer.

ARBITRATION AWARD

New Lisbon Education Association, herein referred to as the Association, having petitioned the Wisconsin Employment Relations Commission to initiate mediation/arbitration proceedings in the above-entitled matter between it and the School District of New Lisbon, herein referred to as the Employer, and the Commission, having appointed the Undersigned as mediator/arbitrator on April 5, 1982, and the Undersigned having conducted mediation on June 23, and November 3, 1982, during the course of which all the issues in dispute were resolved except salary for the 1982-3 school year. The parties waived hearing and submitted the case on prepared exhibits and briefs, the last of which was received December 17, 1982. The parties also made post-brief submissions which were completed March 21, 1983.

ISSUES

All items in dispute in the final offers of the parties have been resolved and the parties submitted amended final offers with respect to the sole remaining issue, the salary schedule for 1982-3. The final offers of the parties are appended hereto. The Employer's final offer is appendix A, and the Association's final offer is appendix B.

POSITIONS OF THE PARTIES

The Association takes the position that the decision in this case should be based upon the comparison criteria. It argues New Lisbon should be initially compared to the Scenic Bluffs Athletic Conference. It argues that there is insufficient data to make a judgment by relying on the athletic conference; therefore, it urges comparison to CESA 12. Although New Lisbon is not in CESA 11, it argues that the arbitrator should look to the many 1982-3 CESA 11 settlements because CESA 11 and CESA 12 are roughly in the same area and compare very closely in wages.

It argues that since 1977-8 it has steadily fallen in rank among the comparables in the athletic conference and CESA 12 with respect to B.A. minimum, M.A. minimum, M.A. maximum, and schedule maximum. Comparing itself to the CESA 12 schools, it argues that 13 of the 23 CESA schools have "some form" of increasing experience increments (i.e. experience increments get larger as the educational lanes go higher). It argues one conference school, Bangor, has some form of this.

It argues that conference schools have increased the difference between B.A. minimum and M.A. minimum substantially since 1977-8, while New Lisbon has done so only minimally. In the Association's view, only its proposal addresses this problem.

It argues that New Lisbon compares very unfavorably to CESA 12 schools with respect to the differential between B.A. base and M.A. base, and that this problem has been compounded because 5 of the 9 schools settled for 1982-3 in CESA 12 have increased this difference. It views its proposal as merely keeping pace with the comparables and not returning to its favorable ranking of 1977-8, while it argues that the Employer's offer would cause it to fall substantially further behind. Assuming the final offers of the employers in Cashton, Necedah, and Norwalk were adopted, and taking into account the 1982-3 settlements of Hillsboro and Elroy, adoption of the Employer's offer in this case would result in New Lisbon, for 1982-3, being lowest in B.A. minimum, second in B.A. maximum, last in M.A. minimum, fifth in M.A. maximum, and fourth in schedule maximum. On the other hand, if the Association's offer is adopted, New Lisbon would be third on B.A. minimum, second on B.A. maximum, fourth on M.A. minimum, second on M.A. maximum, and first on schedule maximum.

It argues that the Employer has the ability to pay. It argues that decisions should be based upon the comparison criteria, returning the Association to the favorable comparative standing it had in 1977-8. However, ignoring the increase necessary for catch up to that former position, it argues that the Employer's offer is still far less than the average increases on the benchmarks cited for 1982-3. Similarly, it argues that the difference between B.A. and M.A. must be increased because of the 9 CESA 12 schools which have settled, 5 have increased this difference. It argues that the Employer's offer provides only 3.70 to 3.92% increase for the 20 teachers who are at the top of the schedule. Cashton, Necedah, and Norwalk have increased their increments and have, thus, increased the income for those people who are at the top of the schedule in those school districts.

The Association argues that many of the school districts in the conference have longevity and, thus, New Lisbon is even lower when this is considered. Further, New Lisbon has more increment steps than most conference schools. It argues that the arbitrator ought not rely on the Consumer Price Index because there has been no cost-of-living clause. Further, catch up for previous years is necessary, and thus, cost of living alone is not enough. At least, settlement patterns should be applied to consider what weight the cost of living should be given.

The Employer takes the position that comparisons should be made only to the Scenic Bluffs Athletic Conference, because the CESA 11 and CESA 12 districts include a wide variety of communities that are no where near comparable to New Lisbon. It argues, that unlike the CESA 11 and CESA 12 districts, the athletic conference schools have a close comparability in the number of

students, the number of full-time equivalent teachers, and close geographical proximity. Thus, it argues that the athletic conference very strongly represents the labor market. The Employer relies primarily upon the reasoning in the arbitration award of Arbitrator Gundermann in Cudahy Schools^{1/}. Thus, it argues that comparisons should not be the primary factor for determination when the settlements for 1982-3 were made in a prior year. Settlements made in a prior year were made under different economic circumstances and the arbitrator should take into account the reduced rate of inflation and the increased unemployment picture from the time the other settlements were made. Finally, it takes the view that the dollar difference between first and last in the athletic conference is so small that differences in relative position among the comparables should be ignored. It argues that the arbitrator should rely primarily upon the cost of living. Since the Employer's offer is 7.11% total package and the Association's offer is 10.62% total package, the Employer's offer should be adopted because inflation has been 6.5%, July 1981 to July 1982, and comparable employers have settled under those circumstances as follows:

1. Bangor	7.91% total package	3/8/83
2. Cashton	7.56% total package	award 2/26/83
3. Elroy	6.77% total package	10/8/82
4. Hillsboro	8.7 % total package	11/15/82

These settlements are all closer to the Employer's position, and therefore, its position should be adopted.

DISCUSSION

The Employer relied upon the decision of Mediator/Arbitrator Gundermann in School District of Cudahy (Decision no. 19635-A) 10/82. In that case, 50% of the comparable school districts had two-year agreements, the second year of all of which set wages for 1982-3. No other comparable school districts had settled. Those settlements favored the association therein, but had been negotiated under other economic circumstances. Mediator/Arbitrator Gundermann chose to rely upon other statutory criteria which he felt recognized the economic circumstances occurring at the beginning of the negotiated contract year. This rationale would include reliance upon negotiated settlements in the comparable school districts which were negotiated under current economic circumstances. Depending on your view of Cudahy, the decision in that case does not apply, or applies differently, where there exists a need for "catch up". An analysis of the appropriate comparisons in this case indicate that New Lisbon has unreasonably fallen behind its comparables and its teachers are entitled to some measure of "catch up" increase in addition to an ordinary adjustment.

Both parties have agreed that the Scenic Bluffs Athletic Conference is the primary comparable group upon which the arbitrator should rely. Taking into account the evidence provided by the parties of settlements in the athletic conference after briefs were filed in this case, the settlements which did occur prior to the filing of the briefs and the fact that CESA schools are markedly different in the structure of their salary schedules than the athletic conference, I conclude it is unnecessary to go beyond the athletic conference for comparisons.

1/ See infra.

The evidence of comparability among the eight Scenic Bluffs Athletic Conference Schools indicates that since 1977-8 the rank of New Lisbon has been steadily slipping in most bench mark categories. The following chart demonstrates this drop in ranking over the relevant periods of time. It should be noted that the primary reason New Lisbon has remained number one in the B.A. maximum ratings is that it generally has more steps in the B.A. column than many of the other schools in the conference.

NEW LISBON RELATIVE RANK					
	BA Min.	BA Max	MA Min.	MA Max.	Scedule Max.
1977-8	2	1	2	3	2
1978-9	2	1	2	4	2
1979-80	6	1	6	4	2
1980-1	8	1	6	5	5
1981-2	8	1	8	5	5

Although New Lisbon is clearly behind its comparables in most bench mark categories, the foregoing does not tell the full story. In view of the "winner-take-all" nature of final offer arbitration, the mere fact that there are inequities in a salary schedule should not, in and of itself, be determinative. Instead the analysis should be concerned with the comparative impact of that schedule on the unit involved. No absolute measure of this impact exists. The parties did not present much significant evidence on this point. The Undersigned has used a few measures of comparison to determine how important these inequities are.

One method of analysis is to look at the weighted effect this schedule has on this unit. The following chart demonstrates that, in most categories for 1981-2, at least half of the full-time equivalents are in areas of the salary schedule which are substantially underpaid by comparison to the average of the other conference schools, while only one third of the unit is comparably paid. Approximately one fourth of the unit is highly paid in comparison to those averages; however, the parties did not supply enough data to determine how much of this is offset by longevity provisions in other conference collective bargaining agreements. An analysis weighting the various differences suggests that the unit as a whole is underpaid even though some members are not underpaid.

1981-2 Athletic Conference Comparisons

	rank 1981-2	New Lisbon	Average w/o New Lisbon	Difference	Staff Affected
BA Min.	8	11,500	11,782	(282)	10.8
BA, Step 10	8	15,028	15,385	(357)	10
BA Max.	1	17,065	16,669	396	10.5
MA Min.	8	12,286	12,812	(526)	0
MA, Step 10	7	15,814	16,442	(628)	5
MA Max.	5	18,391	18,436	(45)	12
Scedule Max.	5	18,653	18,663	(10)	1

Another method of analysis is to assume that the same 1981-2 salary schedule would remain in effect throughout the employees career and determine what an employee would earn if he spent his career at New Lisbon. This method gives appropriate weight to the various bench marks on the salary schedule in making up the career of the employee. The following calculations are based upon an employee who remains in the B.A. column throughout his or her career and is employed for 25 years. The second set of calculations is based upon an employee who progresses from the B.A. through the M.A. column by gaining 6 credits per year. The credits are first treated as being used on the salary schedule at the beginning of the year following the year in which they are earned. These calculations include the effect of longevity.

1981 - 82 CAREER INCOME COMPARISON

	<u>B.A.</u>	<u>RANK</u>	<u>M.A.</u>	<u>RANK</u>
Bangor	387,310	4	424,637	4
Cashton	399,525	1	435,825	1
Elroy	376,450	8	426,500	2
Hillsboro	378,810	5	403,450	8
Necedah	393,550	2	424,750	3
Norwalk	377,400	7	424,450	5
Wonewec	<u>378,158</u>	6	<u>409,020</u>	7
Average w/o New Lisbon	384,457		421,233	
New Lisbon	392,160	3	411,382	6
Difference	5,702		(9,851)	

On this basis, New Lisbon would rank third of eight school districts on a career B.A., while on a career B.A. to M.A. path, it would rank sixth of eight. In the former category, employees are paid comparably to the average; on the latter category unit employees are substantially underpaid. Thus, the evidence indicates the employees of New Lisbon have, on the whole, fallen behind their comparables.

The final set of comparisons is to the conference as a whole for 1982-3. No information is available for Wonewec. With respect to Necedah and Norwalk, I assume the employers' offers are adopted.

1982-3 Comparison
7 Available Districts

	<u>B.A.</u>	<u>B.A., Step 10</u>	<u>B.A. Max.</u>	<u>M.A.</u>	<u>M.A., Step 10</u>	<u>M.A. Max.</u>	<u>Sched. Max.</u>							
Bangor	12,510	16,425	17,730	13,359	17,454	20,184	20,300							
Cashton	12,225	15,825	17,825	13,465	17,065	19,065	19,685							
Elroy	12,775	16,525	16,985	13,525	17,275	20,035	20,185							
Hillsboro	12,640	16,240	17,440	13,240	16,848	19,240	19,240							
Necedah*	12,450	16,275	18,400	13,650	17,475	19,600	19,900							
Norwalk*	12,700	16,435	17,680	14,300	18,035	19,280	19,280							
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Average w/o New Lisbon	12,550	16,288	17,677	13,590	17,359	19,567	19,760							
New Lisbon		rank	rank	rank	rank	rank	rank							
Employer	12,190	7	15,718	7	18,295	2	12,976	7	16,504	7	19,081	6	19,343	5
Assoc.	12,750	2	16,305	4	18,675	1	13,590	3	17,370	4	19,890	3	20,340	1

The Employer's rank continues to slip if its offer is adopted, while the Association's offer tends to bring New Lisbon back to the middle in all categories except the B.A. maximum. All of the settlements upon which the above is based, occurred under recent economic conditions. Accordingly, the factor of comparisons favors the Association's position.

Cost of Living

The instant agreement is a July 1 to June 30 agreement. The relevant cost-of-living index rose 7.1% from June 1981 to June 1982. The total cost of the Employer's offer is 7.11% and the total cost of the Association's offer is 10.62%. While the cost-of-living factor itself favors the Employer's offer, this factor is often given the weight in accordance with what other similarly situated employers and unions have settled for under similar economic circumstances. ^{2/} On March 8, 1983, Bangor settled for a 7.91% total package increase. Cashton settled for 7.56% on February 26, 1983. Elroy settled for 6.77% on October 8, 1982, and Hillsboro settled for 8.7% on November 15, 1982. It should be noted that the Necedah employer's final offer is 8.01% while the Norwalk employer's final offer is 6.95%. Based upon voluntary settlements, one would expect to see a settlement in the range of 7.8%, assuming no "catch up" were appropriate.

Weight

In this case, the factor of comparisons should be given primary weight. First, this unit deserves at least some measure of pay in addition to the amount necessary to counter-act the effects of inflation. The amount necessary to do so appears to exceed 1%. Thus, 8.8% (7.8% + 1%) is closer to the Association's total package offer of 10.62% than the Employer's total package offer of 7.11%. However, based on the available information, it is not reasonably possible to state the amount of additional pay with reliable accuracy. Second, the 1982-3 comparisons in this case are made on the basis of contracts settled or final offers made under current economic

* Employer final offer assumed.

^{2/} The Association contends that this was 8.98%. The Employer contended the increase was 7.7%. Taking into account the correction argued by the Association, but adding direct reimbursement expenses, the result is 8.1%.

circumstances. Thus, this case is entirely different than the situation in School District of Cudahy, Supra. where the comparison school districts had settled under different economic circumstances. Finally, the weight of the comparison criterion in favor of the Association is enhanced by the historic trend. Based upon the foregoing, I conclude the final offer of the Association is to be preferred.

AWARD

That the parties' 1981-3 collective bargaining agreement contain the tentative agreements of the parties, those items agreed during mediation, and the Association's salary schedule for 1982-3.

Dated at Milwaukee, Wisconsin, this 22nd day of March, 1983.



Stanley H. Michelstetter II
Mediator/Arbitrator

Step	BA	BA + 10	BA + 20	MA	MA + 15	BOARD EXHIBIT NO. 1
0	12190	12452	12714	12976	13238	
1	12582	12844	13106	13368	13630	
2	12974	13236	13498	13760	14022	
3	13366	13628	13890	14152	14414	
4	13758	14020	14282	14544	14806	
5	14150	14412	14674	14936	15198	
6	14542	14804	15066	15328	15590	
7	14934	15196	15458	15720	15982	
8	15326	15588	15850	16112	16374	
9	15718	15980	16242	16504	16766	
10	16110	16372	16634	16896	17158	
11	16502	16764	17026	17288	17550	
12	16894	17156	17388	17680	17942	
13	17286	17548	17740	18072	18334	
14	17678	17940	18132	18464	18726	
15	18070	18332	18524	18856	19118	

APPENDIX A

Association

NEW LISBON \$12,750 INCREMENTS = 395-430 LANES = 970-100 10/08/82

STEP	B A	BA+10	BA+20	HA	HA+15
0	12,750	13,020	13,300	13,590	13,890
1	13,145	13,420	13,710	14,010	14,320
2	13,540	13,820	14,120	14,430	14,750
3	13,935	14,220	14,530	14,850	15,180
4	14,330	14,620	14,940	15,270	15,610
5	14,725	15,020	15,350	15,690	16,040
6	15,120	15,420	15,760	16,110	16,470
7	15,515	15,820	16,170	16,530	16,900
8	15,910	16,220	16,580	16,950	17,320
9	16,305	16,620	16,990	17,370	17,750
10	16,700	17,020	17,400	17,790	18,180
11	17,095	17,420	17,810	18,210	18,620
12	17,490	17,820	18,220	18,630	19,050
13	17,885	18,220	18,630	19,050	19,480
14	18,280	18,620	19,040	19,470	19,910
15	18,675	19,020	19,450	19,890	20,340

EXHIBIT NO. 3

APPENDIX B